IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 21ST AUGUST 2007 / 30TH SRAVANA 1929

Crl.MC.No. 2669 of 2007()

CC.19/2007 of JUDL.MAGISTRATE OF FIRST CLASS-I, THAMARASSERY
CRIME NO.83/06 OF KODUVALLY POLICE STATION

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PETITIONER: DEFACTO COMPLAINANT

SHIBINA.P., D/O AABU HAJI,
VELUTHEDATH HOUSE, UNNIKULAM P.O.

BY ADV. SRI.T.G.RAJENDRAN

RESPONDENTS: ACCUSED & COMPLAINANT

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1. ABDUL GAFOOR, S/O KOYAMU HAJI,
KULIRAVUNGAL HOUSE, VATTOLI AMSOM, DESOM,
KIZHAKKOTH VILLAGE.

2. MARIYA HAJUMMA, W/O KOYAMU HAJI,
RESIDING -DO-

3. MUJEEB, S/O KOYAMU HAJI,
RESIDING -DO-

4. AYISA, W/O LATE MAMMU,
KULIRAVUNGAL HOUSE, VATTOLI AMSOM DESOM.

5. K.MUHAMMED ALI, S/O KOYAMU HAJI,
KULIRAVUNGAL HOUSE, VATTOLI AMSOM DESOM.

6. SUB INSPECTOR OF POLICE,
KODUVALLY POLICE STATION.
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM

BY ADV. SRI.CIBI THOMAS
PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 21/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.2669 of 2007

Dated this the 21st day of August 2007

O R D E R

Respondents/Accused 1 to 5 face indictment in a prosecution inter alia for the offences punishable under Section 498A I.P.C. They are husband and relatives of the de facto complainant, the petitioner herein. A private complaint was filed by the petitioner herein. The same was referred to the police under Section 156(3) Cr.P.C. Investigation was completed and final report was filed by the police after due investigation. Cognizance has been taken by the learned Magistrate. The matter is pending before the learned Judicial First Class Magistrate Court-I, Thamarasseri as C.C.No.19/07.

2. The petitioner/de facto complainant and respondents 1 to 5/accused have come before this court now to report to the court that the disputes between them have been settled amicably and the petitioner has compounded the offences allegedly committed by the accused persons. Divorce has been effected and the spouses are residing separately. The respondents are represented by counsel. Their counsel also asserts that the

matter is settled. A joint statement duly signed by the petitioner and the respondents 1 to 5 and counter signed by their respective counsel is also filed.

3. I am satisfied from the averments in the Criminal Miscellaneous Case, the submissions made at the Bar and the joint statements filed by the parties that the parties have willingly and voluntarily settled the disputes among them. I am satisfied that if legally permissible, the settlement and composition can be accepted and premature termination of the proceedings can be achieved. But the offence under Section 498A I.P.C. is not legally compoundable. The learned counsel for the contestants, in these circumstances, rightly rely on the decision of the Supreme Court in B.S.Joshi vs. State of Haryana [AIR 2003 SC 1386]. That decision is authority for the proposition that the interests of justice may, at times, transcend the interests of mere law and in such circumstances, the stipulations of Section 320 Cr.P.C cannot be held to fetter the sweep, width and amplitude of the extraordinary inherent jurisdiction under Section 482 Cr.P.C. I am satisfied that this is an eminently fit case where the powers under Section 482

Cr.P.C, as explained in the dictum in B.S.Joshi vs. State of Haryana [AIR 2003 SC 1386], can and ought to be invoked and proceedings initiated against the respondents by the petitioner brought to premature termination.

4. In the result, this petition is allowed. C.C.No.19/07 pending before the learned Judicial First Class Magistrate Court-I, Thamarasseri against respondents 1 to 5 is hereby quashed.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007